

230762

SLOVER & LOFTUS LLP

ATTORNEYS AT LAW

1224 SEVENTEENTH STREET, N. W.
WASHINGTON, D. C. 20036-3003

WILLIAM L. SLOVER
C. MICHAEL LOFTUS
JOHN H. LE SEUR
KELVIN J. DOWD
ROBERT D. ROSENBERG
CHRISTOPHER A. MILLS
FRANK J. PERGOLIZZI
ANDREW B. KOLESAR III
PETER A. PFOHL
DANIEL M. JAFFE
STEPHANIE P. LYONS
STEPHANIE A. ARCHULETA

OF COUNSEL
DONALD G. AVERY

TELEPHONE:
(202) 347-7170

FAX:
(202) 347-3619

WRITER'S E-MAIL:
spl@sloverandloftus.com

August 3, 2011

VIA ELECTRONIC FILING

Cynthia Brown
Chief, Section of Administration
Office of Proceedings
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

ENTERED
Office of Proceedings

AUG 3 - 2011

Part of
Public Record

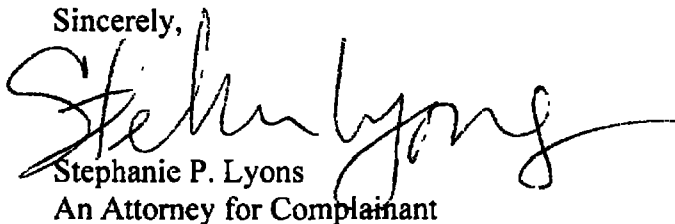
Re: Docket No. NOR 42128, South Mississippi Electric
Power Association v. Norfolk Southern Railway Company

Dear Ms. Brown:

Enclosed for filing in the above-referenced proceeding is Complainant South Mississippi Electric Power Association's Motion to Withdraw First Motion to Compel Discovery.

Thank you for your attention to this matter.

Sincerely,



Stephanie P. Lyons
An Attorney for Complainant

Enclosure

cc: Counsel for Defendant

**BEFORE THE
SURFACE TRANSPORTATION BOARD**

SOUTH MISSISSIPPI ELECTRIC POWER ASSOCIATION)	
)	
Complainant,)	
)	
v.)	Docket No. NOR 42128
)	
NORFOLK SOUTHERN RAILWAY COMPANY)	
)	
Defendant.)	
)	

**MOTION TO WITHDRAW
FIRST MOTION TO COMPEL DISCOVERY**

Complainant South Mississippi Power Association ("SMEPA") hereby moves to withdraw its First Motion to Compel Discovery ("Motion to Compel"), which was filed in this proceeding on July 22, 2011. In support hereof, SMEPA states as follows:

1. SMEPA filed its Motion to Compel in order to secure a Board order directing Defendant, Norfolk Southern Railway Company ("NS") to produce certain data and documents related to NS system traffic, which had been withheld from production based on NS' claim that they contained Sensitive Security Information ("SSI"), within the meaning of 49 C.F.R. Parts 15.5 and 1520. NS replied on August 1, 2011.
2. The matter of NS' SSI objection now has been resolved, and NS has produced data and documents that were the subject of SMEPA's Motion to Compel. As a Board order directing such production no longer is necessary, SMEPA respectfully

moves to withdraw its Motion to Compel. SMEPA requests that this withdrawal be without prejudice, as NS has just produced the subject data, and SMEPA does not yet know whether other issues related to that production may arise that require the Board's attention.¹


3. Counsel for SMEPA has consulted with counsel for NS, and has been authorized to represent that NS concurs in the relief requested herein.

¹ This relief is consistent with that directed by the Board in other recent cases. *See, E.I. DuPont de Nemours & Co. v. Norfolk s. Ry.*, STB Docket No. NOR 42125 (STB served May 23, 2011); *Total Petrochemicals USA, Inc. v. CSX Transp., Inc.*, STB Docket No. NOR 42121 (STB served Dec. 9, 2010).

Respectfully submitted,

**SOUTH MISSISSIPPI ELECTRIC POWER
ASSOCIATION**

By: Jeff C. Bowman
Jackson, Bowman, Blumentritt
& Arrington, PLLC
309 S. 40th Avenue
Hattiesburg, MS 39402
(601) 264-3309

William L. Slover 
Kelvin J. Dowd
Stephanie P. Lyons
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Attorneys for Complainant

OF COUNSEL:

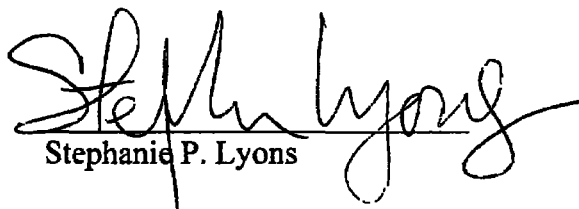
Slover & Loftus LLP
1224 Seventeenth Street, N.W.
Washington, D.C. 20036
(202) 347-7170

Dated: August 3, 2011

CERTIFICATE OF SERVICE

I hereby certify that on this 3rd day of August, 2011, I caused copies of the foregoing Motion To Withdraw First Motion to Compel Discovery to be served by hand delivery and email on counsel for the Defendant, as follows:

G. Paul Moates, Esq.
Paul A. Hemmersbaugh, Esq.
Matthew J. Warren, Esq.
Sidley Austin LLP
1501 K Street, NW
Washington, DC 20005


Stephanie P. Lyons